

historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1228.24(b)(3).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

#### Schedules Pending

1. Department of Agriculture, Risk Management Agency (N1-258-08-14, 3 items, 3 temporary items). Records relating to legal matters, including such records as legal opinions and records relating to hearings and other legal proceedings.

2. Department of Agriculture, Risk Management Agency (N1-258-08-17, 1 item, 1 temporary item). Status and activity reports related to financial priorities.

3. Department of Homeland Security, U.S. Secret Service (N1-87-09-5, 3 items, 2 temporary items). Master files associated with an electronic global positioning system that contain data of a routine nature. Also included are backup files. Data that pertains to significant events or unusual occurrences is proposed for permanent retention.

4. Department of the Interior, Office of the Secretary (N1-48-08-6, 7 items, 5 temporary items). Routine correspondence, chronological files, daily schedules, working papers, and other routine administrative records. Proposed for permanent retention are high level program correspondence files and records, such as appointment books and calendars that document the activities of the Secretary.

5. Department of Transportation, Federal Aviation Administration (N1-237-09-1, 2 items, 2 temporary items). Images of agreements relating to flight inspection services and a related data base used to track the status of agreements.

6. Department of the Treasury, Departmental Offices (N1-56-09-5, 2 items, 1 temporary item). Strategic planning records that document the preparation of strategic plans of specific organizations within the Department of the Treasury. Strategic planning records that relate to the Treasury Strategic Plan are proposed for permanent retention.

7. Department of the Treasury, Treasury Inspector General for Tax Administration (N1-56-09-6, 4 items, 4 temporary items). Records related to audits, including guidance documents, reports, studies, and an electronic information system to track audits and manage audit workflow.

8. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (N-564-09-9, 1 item, 1 temporary item). Master files associated with an electronic system used to track and collect special occupational and floor stocks taxes.

9. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (N-564-09-13, 1 item, 1 temporary item). Master files of an electronic information system used to manage library operations.

10. Department of the Treasury, Community Development Financial Institution (N1-56-09-14, 6 items, 6 temporary items). Records relating to the agency's public Web site, including

operational records and Web content records.

11. Department of the Treasury, Internal Revenue Service (N1-58-09-33, 1 item, 1 temporary item). Master files associated with an electronic information system used to assist agency employees in contacting other staff who have access to the agency's integrated data retrieval system.

12. Department of the Treasury, Internal Revenue Service (N1-58-09-37, 1 item, 1 temporary item). Master files associated with an electronic information system used to update taxpayer information with the latest transactions and status.

13. Department of the Treasury, Internal Revenue Service (N1-58-09-44, 2 items, 2 temporary items). Master files and outputs associated with an electronic information system used to provide Federal tax deposit coupons to business taxpayers.

14. Department of the Treasury, Internal Revenue Service (N1-58-09-45, 1 item, 1 temporary item). Master files associated with an electronic information system used to generate notices informing taxpayers that there are discrepancies in their tax returns.

15. Equal Employment Opportunity Commission, Office of Inspector General (N1-403-08-1, 7 items, 5 temporary items). Routine investigative files, audit case files, and background materials relating to semiannual reports to Congress. Proposed for permanent retention are semiannual reports to Congress and historically significant investigative case files.

Dated: July 31, 2009.

**Michael J. Kurtz,**

*Assistant Archivist for Records Services,  
Washington, DC.*

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#### NUCLEAR REGULATORY COMMISSION

[NRC-2009-0342; 1A-09-026]

#### In the Matter of Mr. Michael T. Hackett; Confirmatory Order (Effective Immediately)

**I**

Mr. Michael Hackett is currently the Radiation Safety Officer (RSO) for the Department of Veterans Affairs (DVA) Medical Center, located in Lexington, Kentucky, and is named as such on Permit 16-08896-04, issued by the Department of Veterans Affairs (licensee) under the authority granted them by Master Materials License (MML) Number 03-23853-01VA.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on June 26, 2009.

## II

On September 17, 2007, the DVA National Health Physics Program (NHPP) inspectors performed an inspection at the DVA Medical Center located in Lexington, Kentucky. The Medical Center is a permittee under the DVA's MML. During the inspection, the NHPP inspectors determined that the RSO had not implemented portions of the radiation safety program including not holding periodic Radiation Safety Committee meetings; not performing annual program reviews; and not performing required hazardous material training. Furthermore, the NHPP determined that the RSO's actions were deliberate. A contributing cause was the permittee's assignment of a collateral duty to the RSO as the Controlled Substance Coordinator.

Based on the NHPP determination, the NRC began an investigation into the actions of the RSO. On December 18, 2008, the Office of Investigations issued an investigation report and on February 23, 2009, the NRC determined that violations of NRC requirements had occurred at the DVA Medical Center located in Lexington, Kentucky. The NRC also preliminarily determined that Mr. Michael Hackett's actions, as the RSO, caused the permittee to be in apparent violation of the above requirements.

The results of the investigation were sent to Mr. Michael Hackett in a letter dated April 16, 2009. This letter offered Mr. Michael Hackett the opportunity to either participate in Alternative Dispute Resolution (ADR) mediation or to attend a Predecisional Enforcement Conference. In response to the NRC's offer, Mr. Michael Hackett requested use of the NRC's ADR process to resolve the differences he had with the NRC. On May 18, 2009, the NRC and Mr. Michael Hackett agreed to mediate. On June 26, 2009, the NRC and Mr. Michael Hackett participated in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. As used by the NRC, ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

## III

During the June 26, 2009, ADR session, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Mr. Michael Hackett agrees to submit to the NRC and NHPP a plan on how he will accomplish all the tasks assigned to him as RSO in the permit, and what steps he will take to ensure that the infrastructure exists for those duties with a long periodicity (*i.e.*, once a year, or once every three years) and what steps he will take to ensure that the permittee, the NHPP, and the NRC are aware that he is accomplishing his assigned duties within 60 days of the issuance of the Confirmatory Order. In addition to the above, such plan shall contain the following:

a. Within 45 days following each periodic (quarterly) Radiation Safety Committee meeting, Mr. Michael Hackett will provide minutes of the meeting to the permittee, the NHPP, and the NRC. This will continue for a period of one year from the date of the issuance of the Confirmatory Order.

b. Within 45 days following completion of the next annual program review following issuance of the Confirmatory Order, Mr. Michael Hackett will provide the results of the review to the permittee, the NHPP, and the NRC.

c. Within 45 days following completion of the next periodic training, conducted following issuance of the Confirmatory Order, regarding transportation and receipt of radioactive material, Mr. Michael Hackett will provide a curriculum of subjects covered and a list of individuals who were required to attend and a list of attendees [with personal privacy information redacted] to the permittee, the NHPP, and the NRC.

d. Within 45 days, Mr. Michael Hackett agrees to inform the NRC if he has been assigned, and has accepted, the responsibility for any additional collateral duties that may impact his ability to successfully fulfill his responsibilities as the Radiation Safety Officer. This will include his evaluation of how he will monitor the collateral duties to ensure that they do not overwhelm his primary RSO responsibilities. This will continue for one year from the issuance of the Confirmatory Order.

2. If, at any time, Mr. Michael Hackett is unable to perform any of his Radiation Safety Officer responsibilities, he will notify the NHPP and the NRC within 30 days.

3. Within 90 days following the issuance of the Confirmatory Order, Mr.

Michael Hackett agrees to prepare and submit to the NRC an article, for subsequent submittal and consideration for publication by the NHPP, to inform others of: (1) The importance of ensuring that a VA radiation safety program fulfills all NRC safety requirements; and (2) developing the necessary infrastructure and communication paths to identify and resolve competing priorities that may preclude successful implementation of a VA radiation safety program. Within 30 days following receipt of approval from the NRC, Mr. Michael Hackett will submit the article to the NHPP for publication.

4. Mr. Michael Hackett agrees that he will inform the NRC if he leaves his RSO position before the terms of this Order are completed. The terms of the Order will remain in abeyance and will be reinstated if he accepts a position as or resumes the duties of an RSO within two years of the date of the Order.

5. The NRC agrees not to pursue any further enforcement action in connection with the NRC's April 16, 2009, letter to Mr. Michael Hackett. This does not prohibit NRC from taking enforcement action in accordance with the NRC Enforcement Policy if Mr. Michael Hackett commits a similar violation in the future or violates this Order.

6. Within 45 days, Mr. Michael Hackett agrees to inform the NRC of any condition that may preclude him from complying with any of the conditions of this Order. In such event, Mr. Michael Hackett may request relief from the associated requirements of the Order.

7. Mr. Michael Hackett has made no admission that he violated any NRC requirements and this agreement is settlement of a disputed claim in order to avoid litigation and further action by the NRC.

On July 9, 2009, Mr. Michael Hackett consented to issuing this Order with the commitments, as described in Section V below. Mr. Michael Hackett further agreed that this Order is to be effective upon issuance and that he has waived his right to a hearing.

## IV

Since Mr. Michael Hackett has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Michael Hackett's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the

foregoing, I have determined that public health and safety require that Mr. Michael Hackett's commitments be confirmed by this Order. Based on the above, and Mr. Michael Hackett's consent, this Order is immediately effective upon issuance.

## V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, *it is hereby ordered, effective immediately:*

1. Mr. Michael Hackett agrees to submit to the NRC and NHPP a plan on how he will accomplish all the tasks assigned to him as RSO in the permit, and what steps he will take to ensure that the infrastructure exists for those duties with a long periodicity (*i.e.*, once a year, or once every three years) and what steps he will take to ensure that the permittee, the NHPP, and the NRC are aware that he is accomplishing his assigned duties within 60 days of the issuance of the Confirmatory Order. In addition to the above, such plan shall contain the following:

a. Within 45 days following each periodic (quarterly) Radiation Safety Committee meeting, Mr. Michael Hackett will provide minutes of the meeting to the permittee, the NHPP, and the NRC. This will continue for a period of one year from the date of the issuance of the Confirmatory Order.

b. Within 45 days following completion of the next annual program review following issuance of the Confirmatory Order, Mr. Michael Hackett will provide the results of the review to the permittee, the NHPP, and the NRC.

c. Within 45 days following completion of the next periodic training, conducted following issuance of the Confirmatory Order, regarding transportation and receipt of radioactive material, Mr. Michael Hackett will provide a curriculum of subjects covered and a list of individuals who were required to attend and a list of attendees [with personal privacy information redacted] to the permittee, the NHPP, and the NRC.

d. Within 45 days, Mr. Michael Hackett agrees to inform the NRC if he has been assigned, and has accepted, the responsibility for any additional collateral duties that may impact his ability to successfully fulfill his responsibilities as the Radiation Safety Officer. This will include his evaluation of how he will monitor the collateral duties to ensure that they do not overwhelm his primary RSO responsibilities. This will continue for

one year from the issuance of the Confirmatory Order.

2. If, at any time, Mr. Michael Hackett is unable to perform any of his Radiation Safety Officer responsibilities, he will notify the NHPP and the NRC within 30 days.

3. Within 90 days following the issuance of the Confirmatory Order, Mr. Michael Hackett agrees to prepare and submit to the NRC an article, for subsequent submittal and consideration for publication by the NHPP, to inform others of: (1) The importance of ensuring that a VA radiation safety program fulfills all NRC safety requirements; and (2) developing the necessary infrastructure and communication paths to identify and resolve competing priorities that may preclude successful implementation of a VA radiation safety program. Within 30 days following receipt of approval from the NRC, Mr. Michael Hackett will submit the article to the NHPP for publication.

4. Mr. Michael Hackett agrees that he will inform the NRC if he leaves his RSO position before the terms of this Order are completed. The terms of the Order will remain in abeyance and will be reinstated if he accepts a position as or resumes the duties of an RSO within two years of the date of the Order.

5. Within 45 days, Mr. Michael Hackett agrees to inform the NRC of any condition that may preclude him from complying with any of the conditions of this Order. In such event, Mr. Michael Hackett may request relief from the associated requirements of the Order.

Notifications to the NRC, as outlined in the above items, should be made to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Lisle, Illinois 60532.

The Regional Administrator, NRC Region III, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Michael Hackett of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than Mr. Michael Hackett, may request a hearing within 20 days of the Order's publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing

rule, which the NRC promulgated in August, 2007, 72 FR 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), or by calling (301) 415-1677, to request: (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the

proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov).

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

If a person other than Mr. Michael Hackett requests a hearing, that person

shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires, if a hearing request has not been received. *A request for hearing shall not stay the immediate effectiveness of this order.*

Dated this 28th day of July 2009.

For the Nuclear Regulatory Commission.

**Mark A. Satorius,**

*Regional Administrator, Region III.*

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**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2009-0345]**

### **Draft Regulatory Guide: Issuance, Availability**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance and Availability of Draft Regulatory Guide, DG-5034, "Protection of Safeguards Information."

#### **FOR FURTHER INFORMATION CONTACT:**

Robert Norman, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 415-2278 or e-mail [Robert.Norman@nrc.gov](mailto:Robert.Norman@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in

evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, "Protection of Safeguards Information," is temporarily identified by its task number, DG-5034, which should be mentioned in all related correspondence. DG-5034 will be a new regulatory guide. Title 10, section 73.21, "Protection of Safeguards Information: Performance Requirements," of the *Code of Federal Regulations* (10 CFR 73.21) requires, in part, that each licensee, certificate holder, applicant, or other person who produces, receives, or acquires Safeguards Information (SGI) shall ensure that it is protected against unauthorized disclosure.

This guide describes a method that the staff of the NRC considers acceptable to implement the general performance requirements specified in 10 CFR 73.21(a)(i) and (ii) that establish, implement, and maintain an information protection system that includes the applicable measures for SGI specified in 10 CFR 73.22, "Protection of Safeguards Information: Specific Requirements," or 10 CFR 73.23, "Protection of Safeguards Information—Modified Handling: Specific Requirements." This guide applies to all licensees, certificate holders, applicants, or other persons who produce, receive, or acquire SGI (including SGI with the designation or marking: "Safeguards Information—Modified Handling" (SGI-M)).

The guidance and criteria contained in this document pertain to the protection of SGI as defined in 10 CFR part 73, "Physical Protection of Plants and Materials." It is intended to assist licensees and other persons who produce, receive, or acquire SGI to establish an information protection system that addresses (1) Information to be protected, (2) conditions for access, (3) protection while in use or storage, (4) preparing and marking documents or other matter, (5) reproduction of matter containing SGI, (6) external transmission of documents and material, (7) processing SGI on electronic systems, (8) removal from the SGI category, and (9) destruction of matter containing SGI.

##### **II. Further Information**

The NRC staff is soliciting comments on DG-5034. Comments may be accompanied by relevant information or supporting data and should mention DG-5034 in the subject line.

Comments submitted in writing or in electronic form will be made available to the public in their entirety through